

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BENJAMIN ESPINOSA,

Plaintiff,

v.

WILLIAM GITTERE, *et al.*,

Defendants.

Case No. 3:21-CV-00205-ART-CLB

**ORDER GRANTING TO FURTHER
IDENTIFY DOE DEFENDANT**

[ECF No. 43]

Currently pending before the Court is Plaintiff Benjamin Espinosa's ("Espinosa") Motion "to further identify Doe Defendants." (ECF No. 43.) In the motion, Espinosa seeks to substitute the proper name for "John/Jane Doe Defendant IV" for "Gloria Carpenter, Head of Nursing." (*Id.* at 1.) Defendants did not oppose the motion. For the reasons stated below, the Court grants the motion.

In his motion, Espinosa seeks to amend his complaint to correctly name the above referenced "Doe" defendant. The Court construes this motion as a motion to amend pursuant to Fed. R. Civ. P. 15(c)(3). This rule allows an amended pleading to relate back to the date of the original pleading when the amendment changes the name of a party against whom a claim is asserted if the claim asserted arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading.

The Court finds that the substitution of "Gloria Carpenter, Director of Nursing" for "John/Jane Doe Defendant IV" relates back to the conduct alleged in the original complaint, (ECF No. 1-1), and the first amended complaint. (ECF No. 23.) Therefore, the Court grants Espinosa's Motion. (ECF No. 43)

Accordingly, IT IS ORDERED that the first amended complaint shall be deemed amended to reflect that "Gloria Carpenter, Director of Nursing" is substituted for "John/Jane Doe Defendant IV." In addition, the Clerk of Court shall CHANGE the docket to reflect this amendment.

1 IT IS FURTHER ORDERED that the Clerk shall SEND a copy of this order, along
2 with a copy of Espinosa's First Amended Complaint, (ECF No. 23), and a copy of the
3 Court's Screening Order entered March 4, 2022, (ECF No. 22), to the Office of the
4 Attorney General of the State of Nevada, attention Andrew Christian Nelson. The Office
5 of the Attorney General shall advise the Court on or before, **Wednesday, January 18,**
6 **2023** whether they can accept service of process for Defendant Gloria Carpenter, Director
7 of Nursing. If the Attorney General accepts service of process for Defendant, Defendant
8 shall file and serve an answer or other response to the first amended complaint within
9 sixty (60) days of the date of entry of this order.

10 IT IS FURTHER ORDERED that if the Attorney General will not accept service for
11 Defendant on the ground that they are a former employee of the Nevada Department of
12 Corrections, then the Attorney General shall submit that former employee's last known
13 address to the Court under seal.

14 **DATED:** December 28, 2022

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16 **UNITED STATES MAGISTRATE JUDGE**
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